

MCNAIR LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW

www.mcnair.net

BANK OF AMERICA TOWER
1301 GERRAIS STREET, 17th FLOOR
COLUMBIA, SOUTH CAROLINA 29201

POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803)799-9800
FACSIMILE (803)376-2277

September 2, 2005

Mr. Charles L. A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

RECEIVED
2005 SEP -2 PM 2:54
SC PUBLIC SERVICE
COMMISSION

**Re: Petition of MCImetro Access Transmission Services, LLC
for Arbitration of Certain Terms and Conditions of Proposed
Agreement with Horry Telephone Cooperative, Inc. Concerning
Interconnection and Resale under the Telecommunications Act
of 1996
Docket No. 2005-188-C**

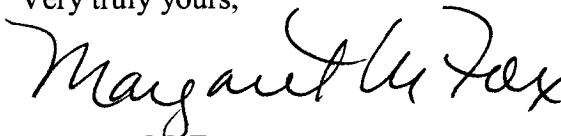
Dear Mr. Terreni:

Enclosed for filing on behalf of Horry Telephone Cooperative, Inc., please find an original and twenty-five (25) copies of the Testimony of Valerie Wimer and an original and twenty-five (25) copies of the Testimony of Douglas Duncan Meredith in the above-referenced matter. By copy of this letter and Certificate of Service, all parties of record are being served with one (1) copy each of these testimonies by U. S. Mail.

Please clock in a copy of this filing and return it to us with our courier.

Thank you for your assistance.

Very truly yours,



Margaret M. Fox

MMF/rwm
Enclosures

cc: Parties of Record

OK AMS
OK ASD

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-188-C

RECEIVED
2005 SEP -2 PM 2:54
SOUTH CAROLINA
PUBLIC SERVICE
COMMISSION

RE: Petition of MCImetro Access Transmission)
Services, LLC for Arbitration of Certain Terms)
and Conditions of Proposed Agreement with)
Horry Telephone Cooperative, Inc. Concerning)
Interconnection and Resale under the)
Telecommunications Act of 1996)
_____)

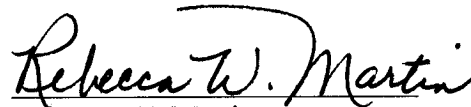
**CERTIFICATE OF
SERVICE**

I, Rebecca W. Martin, Secretary for McNair Law Firm, P. A., do hereby certify that I have this date served one (1) copy of the Testimony of Valerie Wimer and one (1) copy of the Testimony of Douglas Duncan Meredith in the above-referenced matter on the following parties of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

Darra W. Cothran, Esquire
Woodward Cothran & Herndon
Post Office Box 12399
Columbia, South Carolina 29211-2399

Shannon B. Hudson, Esquire
South Carolina Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Kennard B. Woods, Esquire
MCI Law and Public Policy
Six Concourse Parkway
Suite 600
Atlanta, Georgia 30328



Rebecca W. Martin
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina
(803) 799-9800

September 2, 2005

Columbia, South Carolina

FILE COPY

BEFORE

THE PUBLIC SERVICE COMMISSION

OF

SOUTH CAROLINA

Docket No. 2005-188-C

RECEIVED
2005 SEP -2 PM 2:54
SC PUBLIC SERVICE
COMMISSION

TESTIMONY OF VALERIE WIMER

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND PLACE OF BUSINESS.

A. My name is Valerie Wimer. I have been employed by John Staurulakis, Inc. (JSI) since 1997. JSI is a telecommunications consulting firm headquartered in Seabrook, Maryland. At JSI, I am the Director of New Business Development. I am responsible for helping rural companies offer new products, implement new technologies and prepare for competition. In this position, I have been involved in many interconnection agreements between competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) and the implementation of Local Number Portability (LNP), Digital Subscriber Line (DSL), and Fiber to the Home.

Prior to my employment at JSI, I worked for Southern New England Telephone (SNET) for eighteen years. I started my career in outside plant engineering where I was responsible for the planning of the economic placement of facilities to meet

1 customer growth. I held several management positions in switching operations,
2 procurement, and network planning prior to being promoted to Director of
3 Transmission Engineering. In that position, I was responsible for transmission
4 performance, equipment testing, and microwave engineering. I moved to the
5 Marketing and Product Management Department to plan and implement emerging
6 technology based products including ISDN, SS7, and small business centrex
7 products. I was responsible for quantifying customer demand, translating that
8 information into a product definition, identifying the cost and price of the service,
9 and implementing the service across all the operations departments. I moved to
10 Director of Network Architecture where I was responsible for the evolution of
11 switching, signaling, trunking, and outside plant network technologies in
12 Connecticut. This included evaluating the addition or elimination of tandem
13 switches and the migration to host/remote switch architecture. I also was Director
14 of Network Services where I was responsible for the development and
15 implementation of SNET's corporate policies governing local competition in
16 Connecticut. I supervised the marketing and technical development of
17 interconnection agreements, resale service, and unbundled elements. I was the
18 SNET technical and marketing witness for several dockets relating to the
19 development of competition in Connecticut. I also managed a CLEC users group
20 for SNET, which educated CLECs on the requirements of local service and
21 solicited input from the CLEC industry regarding operational requirements.

1 I graduated with honors from Cornell University with a BS in engineering. I
2 completed Executive Engineering Education at Stanford University, Continuing
3 Engineering Courses at George Washington University, and SNET's Advanced
4 Management Development Program.

5
6 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

7 A. I am testifying on behalf of Horry Telephone Cooperative.

8
9 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10 A. The purpose of my testimony is to address Issues #1, #6, and #8 which all relate
11 to the inclusion of signaling parameters in the signaling system 7 (SS7) stream. I
12 will also address Issue #9 concerning number portability.

13
14 Horry proposes that both parties include all the signaling parameters, including
15 Calling Party Number (CPN) and Jurisdictional Indicator Parameter (JIP). This
16 request is consistent with the industry standards. These parameters should be
17 included on all calls to insure that the network operates properly and intercarrier
18 billing is accurate. It is further proposed that the parties will pay access charges
19 on traffic that does not include CPN and JIP if these parameters are missing from
20 more than 10% of the calls. Horry also proposes that both parties be responsible
21 for the inclusion and the accuracy of the signaling parameters sent to the other
22 party.

1 With respect to Issue #9, Horry's proposed wording is consistent with FCC
2 obligations for number porting and Horry is not obligated to port numbers for
3 non-telecommunications services. Horry is also not obligated to port numbers to
4 an intermediary who does not serve the end user customer.

5
6
7 **ISSUE #1: SHOULD COMPANIES BE REQUIRED TO PROVIDE JIP**
8 **INFORMATION?**

9
10 **Q. WHAT IS THE DISPUTE WITH RESPECT TO ISSUE #1?**

11 A. The JIP is a new standard to help better identify the physical location of the end
12 user. Horry is compliant with the JIP standard and wants MCImetro
13 Transmission Services, LLC's (MCI's) commitment that they will also comply.

14
15 **Q. WHY IS THE CORRECT IDENTIFICATION OF THE JURISDICTION**
16 **OF A CALL IMPORTANT TO HORRY?**

17 A. The jurisdiction of the call is important because the intercarrier compensation
18 rules for local traffic and toll traffic are very different. Local traffic is subject to
19 reciprocal compensation where the originating carrier pays the terminating carrier.
20 Toll traffic intercarrier compensation is subject to access charges, and both the
21 originating and terminating carriers receive payment. The rates for access and
22 reciprocal compensation are also very different. For the purpose of this
23 agreement, Horry is recommending compensation for the exchange of IntraLATA

1 Traffic to be in the form of reciprocal termination service provided by each party
2 without a per minute of use charge.

3
4 Access charges, on the other hand, are approximately \$0.01 per MOU in South
5 Carolina and range from \$0.015 to \$0.025 per MOU in the interstate jurisdiction.
6 The large disparity in the rates for access and reciprocal compensation has
7 provided an incentive for some carriers to play regulatory arbitrage by disguising
8 their toll traffic as local or IntraLATA traffic for the purpose of compensation
9 under the agreement to avoid paying access charges. Horry must be able to
10 identify the jurisdiction of the call in order to avoid this problem.

11
12 **Q. HOW HAVE CARRIERS TRADITIONALLY DETERMINED THE**
13 **JURISDICTION OF THE CALL?**

14 A. The jurisdiction of the call is based on the locations of the originating end user
15 and the terminating end user. Since the network is not set up to identify the actual
16 location of the end user in real time, the originating and terminating telephone
17 numbers have been used as a proxy for the physical location of the end users
18 involved. The originating telephone number is the Calling Party Number (CPN)
19 while the terminating telephone number is the Called Party Number (CdPN). The
20 NPA-NXX of both the CPN and CdPN are compared to determine the jurisdiction
21 of the call: Local, IntraLATA, InterLATA Intrastate, or Interstate.

1 **Q. IS CPN STILL A GOOD PROXY FOR THE LOCATION OF THE END**
2 **USER?**

3 A. CPN is becoming a less and less accurate proxy for the location of the end user.
4 Cellular service allows end users to roam the country using a single telephone
5 number. Some wireline carriers are assigning telephone numbers outside the rate
6 center associated with the NPA-NXX (Virtual NXX or VNXX). Some VoIP
7 providers advertise the ability for end users to choose a number in any major city.
8 In all of these examples the CPN would not accurately represent the location of
9 the end user.

10
11 CPN traditionally was used to identify the carrier who served the end user. Each
12 LEC was a code holder of NPA-NXXs which were listed in the Local Exchange
13 Routing Guide (LERG). The NPA-NXX of the CPN could uniquely identify the
14 originating carrier because only one LEC was serving end users with numbers
15 from that NPA-NXX. Today with Local Number Portability (LNP), a particular
16 number could be assigned to a customer of any telecommunications carrier in the
17 area. The Local Routing Number (LRN) which is returned with the LNP query
18 will identify the terminating carrier. The originating carrier is not identified
19 because the code holder of the NPA-NXX listed in the LERG is no longer the
20 ported end user's LEC.

1 **Q. HAS THE USE OF CPN AND CdPN ALONE CREATED PROBLEMS IN**
2 **DETERMINING THE PROPER JURISDICTION?**

3 A. Yes. Horry has discovered that for some calls CPN has been substituted with
4 another number to make the call appear to be local. Several industry groups have
5 been investigating “Phantom Traffic” which is traffic where the originating carrier
6 is not identified or the jurisdiction is unknown. There was a conference in April
7 2004 sponsored by the National Exchange Carriers Association (NECA) to
8 address Phantom Traffic. Two major methods of misrepresenting calls discussed
9 at the conference were the substitution of CPN with a local number and the use of
10 VNXX to either originate or terminate a call.

11
12 **Q. PLEASE GIVE AN EXAMPLE WHERE THE CPN AND CdPN DO NOT**
13 **ACCURATELY REFLECT THE JURISDICTION OF THE CALL.**

14 A. The CPN and CdPN will not show the proper jurisdiction in the case of a Virtual
15 NXX. The telephone numbers are obtained in one rate center and assigned to
16 customers in another rate center or even another state. When a Conway, SC
17 VNXX telephone 843-555-2222 number is assigned to a customer physically
18 located in Atlanta, GA, and the customer calls a customer actually located in
19 Conway, SC with an 843-555-1111 telephone number, the CPN will accurately
20 show 843-555-2222 and the CdPN will show 843-555-1111. The call will look
21 like a local call based on the comparison of the CPN and CdPN, but the call is in
22 fact an interstate call. Additional information is required to determine if that call
23 is local or toll.

1 **Q. HOW DOES JIP HELP DETERMINE THE PROPER JURISDICTION OF**
2 **THE CALL?**

3 A. JIP was developed to more accurately represent the physical location of the
4 customer by identifying network equipment close to the end user's location and to
5 uniquely identify the carrier originating the call. The JIP is a six digit code that is
6 unique to the particular location and to the particular carrier at that location.

7
8 The original proposal for wireless carriers was to have a JIP for every cell site.
9 There were technical difficulties in implementing that proposal and a compromise
10 of a JIP for every switch per LATA and per state was ultimately agreed upon. As
11 work on JIP continues and equipment evolves, a JIP closer to the end user may
12 become practical.

13
14 The JIP and the CPN together provide two points that can represent the location
15 of the end user. If those two points match, there is a high probability that the end
16 user is actually located in that geographic area. If the two points do not match,
17 then further analysis may be required. Several scenarios have to be investigated.
18 If the customer is physically located at the rate center associated with the CPN but
19 the call enters the Public Switched Telephone Network (PSTN) at the JIP
20 location, as may happen on a VoIP call, then the CPN and not the JIP accurately
21 represents the customer's physical location. If the customer has a VNXX, then
22 the JIP and not the CPN accurately reflects the physical location of the customer.
23 A difference between the CPN and JIP may also indicate that one or both of these

1 parameters has been altered. A carrier can analyze the various combinations,
2 amount of traffic, and traffic trends to determine the actual nature of the traffic.
3 JIP is not a magic bullet, but it is another tool to identify traffic jurisdiction.
4

5 **Q. DOES THE DELIVERY OF TOLL TRAFFIC ON SEPARATE TRUNKS**
6 **ELIMINATE THE NEED FOR JIP?**

7 A. No. In Mr. Darnell's testimony at page 28 lines 2-4, he states that MCI delivers
8 toll traffic only on toll trunks. Yet if MCI (or one of its wholesale customers)
9 assigns VNXX numbers to customers outside the LATA, MCI has not stated
10 whether it will route these calls over toll trunks or local trunks. MCI's position
11 has been that the telephone number is the controlling factor in determining the
12 jurisdiction of the call, which is in direct conflict with this Commission's prior
13 rulings. By not providing the proper JIP on calls, MCI would effectively deny
14 Horry the ability to audit traffic to properly identify the true location of the
15 customer.
16

17 **Q. IS JIP USED IN RATING END USER CALLS?**

18 A. No. The JIP is used to determine which type of intercarrier compensation is due,
19 not to rate end user calls. The Alliance of Telecommunications Industry
20 Solutions (ATIS) press release on the final JIP rules dated December 15, 2004
21 makes this clear:

22 By populating the JIP, calls can be routed more precisely and *inter-carrier*
23 *billing* can be determined more precisely.

1 The inclusion of JIP will in no way impact rates charged to end users.

2
3 **Q. DOES JIP HELP IN AUDITS?**

4 A. Yes. The more information available in a call record, the more difficult it is for a
5 carrier to misrepresent traffic. Today a carrier may substitute a CPN to make toll
6 traffic look local. If that traffic also had a JIP associated with it, the job of
7 deception becomes more difficult. An audit can validate CPN, JIP and CdPN
8 information along with originating point codes and other SS7 parameters. If all
9 the fields match there need not be an investigation. If the fields do not match,
10 further investigation is required. MCI states three times in Mr. Darnell's
11 testimony (p. 28 line 4, p. 32 lines 9-12, and p. 33 line 10) that Horry does not
12 need JIP because it has the right to audit the call records. The call records with
13 only CPN do not provide all the information needed to reach an accurate
14 conclusion. By arguing against the use of JIP, MCI is effectively denying Horry
15 the ability to conduct accurate audits.

16
17 **Q. WHAT FACTORS LED TO THE CREATION OF JIP?**

18 A. The ATIS press release states, "The evolution of number portability and roaming
19 have resulted in the calling directory number no longer being an accurate
20 reflection of the geographic location of the originating party." As the amount of
21 traffic associated with a misrepresentative CPN became larger, the industry
22 became more concerned with the proper identification of the traffic. The industry

opened three issues related to this problem in the Network Interconnection Interoperability Forum (NIIF), as follows:

Issue 2308 – Need for Accurate Jurisdictional Information for Accurate Billing.

Issue 2349 – Impact of Wireless Number Portability on Wireline Service Providers.

Issue 2786 – Jurisdictions determination for Calls Originating or Terminating on an IP Network.

The industry reached consensus on Issues 2308 and 2349 concerning wireline and wireless JIP and the Issues were closed on December 8, 2004. Issue 2786 which concerns VoIP traffic is still open.

Q. IS INCLUSION OF THE JIP IN THE SIGNALING STREAM A STANDARD?

A. Yes. The NIIF finalized Issues 2308 and 2349 and the rules have been published in NIIF Reference Document ATIS-0300011 “Part III, Installation and Maintenance Responsibilities for SS7 Links and Trunks.” The ATIS press release describes the requirement: “The population of JIP data is recommended for all wireline calls and, where technically feasible, for calls originating from wireless devices.”

1 **Q. WHAT IS THE STANDARD THAT THE NIIF DEVELOPED?**

2 A. The NIIF finalized seven rules for the implementation of JIP. While the NIIF
3 declined to make the use of JIP mandatory, it strongly recommended that JIP be
4 populated for both wireline and wireless carriers where technologically possible.

5 7 Rules for Populating JIP

6
7 1. JIP should be populated in the Initial Address Messages (IAMs) of all
8 wireline and wireless originating calls where technically feasible.

9
10 2. JIP should be populated with an NPA-NXX that is assigned in the
11 LERG to the originating switch or MSC.

12
13 3. The NIIF does not recommend proposing that the JIP parameter be
14 mandatory since calls missing any mandatory parameter will be aborted.
15 However the NIIF strongly recommends that the JIP be populated on all
16 calls where technologically possible.

17
18 4. Where technically feasible if the originating switch or MSC serves
19 multiple states/LATAs, then the switch should support multiple JIPs such
20 that the JIP used for a given call can be populated with an NPA-NXX that
21 is specific to both the switch as well as the state and LATA of the caller.

22
23 If the JIP cannot be populated at the state and LATA level, the JIP should
24 be populated with an NPA-NXX specific to the originating switch or MSC
25 where it is technically feasible.

26
27 5. Where the originating switch cannot signal JIP it is desirable that the
28 subsequent switch in the call path populate the JIP using a data fill default
29 associated with the incoming route. The value of the data fill item is an
30 NPA-NXX associated with the originating switch or MSC and reflects its
31 location.

32
33 6. When call forwarding occurs, the forwarded from DN (Directory
34 Number) field will be populated, the JIP will be changed to a JIP
35 associated with the forwarded from DN and the new called DN will be
36 inserted in the IAM.

37
38 7. As per T1.TRQ2 [Industry standards document], the JIP should be reset
39 when a new billable call leg is created.
40

1 To summarize, the standard recommends that wireline and wireless carriers
2 implement JIP in their switches. One JIP per switch per LATA per state is
3 recommended when technically feasible.
4

5 **Q. NOW THAT NIIF HAS RECOMMENDED JIP, HOW DOES THE**
6 **INDUSTRY IMPLEMENT THE NEW RULES?**

7 A. A standard creates an industry guideline. The FCC mandates implementation of
8 some industry guidelines, for example wireline-to-wireless LNP. However, most
9 standards are implemented by industry practice. As carriers implement the
10 standards in their own networks, they work with the interconnecting networks to
11 implement the same standards either through agreements or by requiring a
12 connecting carrier to comply with the standard as a condition of purchasing
13 service.
14

15 **Q. IS JIP INCLUDED IN OTHER AGREEMENTS?**

16 A. Since JIP is a new standard, it is not yet specifically included in many agreements.
17 However, many new agreements are starting to address JIP. The June 2005
18 version of the Verizon standard agreement includes JIP as one of the signaling
19 parameters. JIP is also included in some recent Sprint agreements. MCI claims
20 that the BellSouth agreement does not require JIP. However, the BellSouth
21 agreement references industry standards. JIP is an industry standard so would be
22 included in that broad reference.
23

1 **Q. IF JIP IS NOT A MANDATORY FIELD IN THE INITIAL ADDRESS**
2 **MESSAGE (IAM), DOES THAT MEAN THAT JIP IS NOT STANDARD?**

3 **A.** No. Most standards are not mandated by the FCC or any other regulatory body.
4 However, industry standards still exist that companies comply with in order to
5 maintain the quality of the network. In some cases, there may be more than one
6 standard for implementing the same function. Therefore, interconnecting parties
7 must specify the standards they will use. Compliance with certain standards is
8 included in interconnection or other contractual arrangements to insure both
9 parties are complying with the same standards. MCI is trying to confuse the issue
10 by stating that if JIP is not mandated, then it is not a standard.

11
12 The NIIF did not mandate use of JIP in the IAM because it did not want to
13 interrupt the flow of traffic. Making a field mandatory in the IAM means that a
14 call cannot be completed if it does not contain that information. For example, if
15 the dialed number is not in the IAM, the switch would not be able to complete the
16 call and the call would be blocked. JIP is used for determining the jurisdiction of
17 a call. Although it is very important to determine the jurisdiction and to properly
18 bill a call, this is not required for actually routing and completing the call. The
19 NIIF did not make the JIP mandatory in the IAM, as stated in rule #3 above,
20 because it did not want calls to be blocked solely on the basis of missing billing
21 information. However, the NIIF is strongly recommending that the JIP be
22 included when technically feasible. JIP is a standard, but it is not a mandatory
23 field for call completion.

1 **Q. ONE OF THE CRITERIA FOR IMPLEMENTING JIP IS THAT IT BE**
2 **TECHNICALLY FEASIBLE. IS IT TECHNICALLY FEASIBLE FOR**
3 **MCI TO IMPLEMENT JIP?**

4 A. Yes. In Mr. Darnell's testimony at page 25 line 20, he states that MCI can
5 populate the JIP with the MCI switch JIP.

6
7 **Q. CAN A SWITCH HAVE MORE THAN ONE JIP?**

8 A. MCI lists a DMS 100 switch as its switch type in the Local Exchange Routing
9 Guide (LERG) with South Carolina NPA-NXXs. The manufacturer's
10 recommendation for implementing JIP is to use the Location Routing Number
11 (LRN) for the originating call as the JIP. For switches that serve multiple
12 LATAs, there must be one LRN per switch per LATA in order for the calls to
13 terminate properly. Horry and other rural local exchange carriers in South
14 Carolina with DMS switches have actually implemented multiple JIPs on their
15 switches.

16
17 **Q. HOW MANY JIPS DOES HORRY EXPECT FROM MCI?**

18 A. Horry expects MCI to implement JIP according to the standard.

19
20 Rule # 4. Where technically feasible if the originating switch or MSC
21 serves multiple states/LATAs, then the switch should support multiple
22 JIPs such that the JIP used for a given call can be populated with an NPA-
23 NXX that is specific to both the switch as well as the state and LATA of
24 the caller.

25
26 If the JIP cannot be populated at the state and LATA level, the JIP should
27 be populated with an NPA-NXX specific to the originating switch or MSC
28 where it is technically feasible.
29

1 In the case of South Carolina where there are multiple LATAs, Horry would
2 expect to see one JIP for each LATA per switch that is serving that LATA. The
3 DMS 100 translations guide recommends that the JIP use the same NPA-NXX
4 as the LRN in the switch. There is also a requirement for a unique LRN to be
5 assigned for each switch, for each LATA, and for each state served by the
6 switch. The DMS is capable of supporting multiple LRNs and multiple JIPs to
7 meet these requirements.

8
9 **Q. IS MCI'S SWITCH TYPE CAPABLE OF SUPPORTING MULTIPLE**
10 **JIPS?**

11 A. In Mr. Darnell's testimony on page 22 lines 3-5, he states that MCI intends to use
12 their Atlanta and Charlotte switches to serve the Horry territory. Both these
13 switches are listed as DMS-100 in the LERG. MCI lists 9 LRNs in the Atlanta
14 switch and 5 LRNs in the Charlotte switch in the LERG. All MCI has to do is
15 follow the manufacturer's instructions in using these LRNs as the JIP for calls
16 originated from the corresponding LATAs.

17
18 **Q. IS MR. DARNELL'S DEPICTION OF HORRY'S REQUEST OF JIP**
19 **DETAIL AND JIP LIMITATIONS ACCURATE?**

20 A. No. Horry is not asking MCI to create a JIP for each rate center, as Mr. Darnell
21 suggests in his testimony at page 28, lines 14-23. There are over 200 rate centers
22 in South Carolina, but only three LATAs. Assuming MCI is also serving Georgia
23 (5 LATAs) and North Carolina (5 LATAs), there would be up to 10 additional

1 LATAs covered by MCI's two switches. Horry is requesting that the information
2 for one of the 3 to 13 JIPs associated with the LATAs served by MCI's two
3 switches be included in the call record. If the two switches serve an equal number
4 of LATAs there would be 6 to 7 JIPs per switch, not hundreds as MCI suggests.

5
6 The DMS switch has the ability to handle multiple JIPs. One South Carolina rural
7 local exchange carrier has implemented over 10 JIPs in its DMS switch for
8 tracking purposes. Clearly Horry's request that MCI implement 3 to 13 JIPs
9 (fewer than the LRNs already deployed) split between two switches is within the
10 technical capability of MCI's DMS switches and does not limit MCI's ability to
11 serve a broad geographical area, as claimed by MCI.¹

12
13 **Q. IS THERE A PARTICULAR TYPE OF TRAFFIC THAT SHOULD**
14 **CONTAIN JIP?**

15 A. Yes. Horry is concerned about the traffic that is covered under this agreement,
16 *i.e.*, IntraLATA traffic that is exchanged directly between the end user customers
17 of MCI and Horry. No other type of traffic should be placed on the
18 interconnection trunks described in this agreement. In addition, the determination
19 of toll traffic for intercarrier compensation purposes is the physical location of the
20 customer. MCI should segregate traffic of its existing VNXX customers from the
21 interconnection trunks anticipated under this agreement. If MCI has difficulty
22 segregating this traffic, JIP can help identify the traffic in those cases where the
23 CPN does not accurately reflect the physical location of the customer.

¹ See Darnell Testimony, page 30 lines 3-5.

1

2 The agreement does not concern toll traffic from MCI Long Distance or any other
3 carrier. For MCI's traffic to be included in this agreement, it would be originated
4 on MCI's switch(s) and directly terminated on Horry's switch. Since MCI is not
5 a tandem, there would be no other traffic from third parties. MCI has complete
6 control over the calls originated on its switch and can make sure the calls comply
7 with all the signaling standards, including JIP.

8

9 **Q. HOW SHOULD THE SOUTH CAROLINA PUBLIC SERVICE**
10 **COMMISSION (COMMISSION) RULE ON ISSUE #1?**

11 A. The Commission should rule that MCI is required to include both JIP and CPN in
12 the signaling information and reject MCI's attempt to thwart Horry's ability to
13 properly identify the physical location of the customer by not meeting the JIP
14 standard. JIP is an industry standard that is being implemented by wireline and
15 wireless carriers. MCI has stated that it is capable of providing JIP. MCI's
16 switch type is capable of complying with the standard of a unique JIP per switch
17 per LATA per state. JIP is useful in determining the jurisdiction of the calls for
18 purposes of determining the proper intercarrier compensation and for audits.

19

**ISSUE #6: SHOULD PARTIES BE REQUIRED TO PAY ACCESS CHARGES
ON UNIDENTIFIED TRAFFIC WHEN MORE THAN 10% JIP
AND CPN ARE MISSING?**

Q. WHAT IS THE DISPUTE WITH REGARDS TO ISSUE #6?

A. Horry wants both parties to have an incentive to provide all the signaling information including both CPN and JIP on all calls. If more than 10% of the calls do not have JIP and CPN, then it is assumed that traffic is InterLATA traffic and the appropriate access charges should be paid.

**Q. IS IT REASONABLE TO INCLUDE INCENTIVES IN AN
INTERCONNECTION AGREEMENT?**

A. Yes. The terms and conditions of all agreements provide rules on how the parties will interact with each other and the consequences if the terms and conditions are not followed. For example, the parties have already agreed to late payment terms which charge a penalty of 1½% interest for payments that are past 30 days overdue. The interest payment creates an incentive for the parties to pay the bills on time. Horry is proposing a similar financial penalty for not providing the proper signaling information.

1 **Q. WHY SHOULD THE PARTIES BE REQUIRED TO PAY ACCESS RATES**
2 **ON UNIDENTIFIED TRAFFIC WHEN SUCH TRAFFIC IS MORE THAN**
3 **10% OF THE PARTY'S TOTAL ORIGINATING TRAFFIC?**

4 A. There are two types of intercarrier compensation: reciprocal compensation and
5 access. Only reciprocal compensation traffic (and some minor amount of transit
6 traffic on the Horry tandem) is included in this agreement. The rate difference
7 between reciprocal compensation and access provides an incentive to carriers to
8 save money by representing access traffic as reciprocal compensation traffic. If
9 the traffic is misrepresented, the penalty should be at least equal to the rate the
10 carrier would have paid if the traffic were properly identified. There should be no
11 benefit to MCI for misrepresenting traffic. In such a case, being required to pay
12 access is not a penalty at all, but merely requires MCI to pay the correct
13 intercarrier compensation on the call.

14
15 **Q. SINCE MCI HAS COMPLETE CONTROL OVER THE INTRALATA**
16 **TRAFFIC DELIVERED TO HORRY, IS A 90% JIP AND CPN FACTOR**
17 **REASONABLE?**

18 A. Yes. All the traffic that is sent to Horry should be originated on MCI's switch, as
19 discussed in Issue #1. That switch is capable of providing a JIP per LATA per
20 state on all the calls originated on it. Therefore, JIP should be on 100% of the
21 calls.

1 CPN is typically populated by the LEC with the line number on the customer line.
2 In a situation with a PBX, Horry discusses the CPN that will be placed on the
3 calls from the PBX with the customer at the time of installation. This is common
4 practice in the industry. Although, there are several numbers a PBX customer
5 may choose when they order their trunks, the carrier ultimately controls the CPN.
6 MCI provides an example of a case where the PBX owner may want an 8XX
7 number as its CPN.² MCI would have to allow the 8XX number to be used for
8 the CPN. Horry has control over the CPN provided for its PBX customers and
9 provides CPN on 100% of the PBX calls. It would be hard to imagine that MCI's
10 network was less capable than Horry's network. CPN should also be readily
11 available for 100% of customers directly served by MCI or Horry.

12
13 The 90% JIP and CPN factor is very reasonable because MCI is not dependent on
14 any other carrier to comply with the signaling. Horry will include the JIP and
15 CPN on 100% of the calls barring intermittent technical problems. If Horry,
16 which has few technical resources, is able to perform to this level, there is no
17 excuse for MCI with their vast technical resources not to comply as well.

18
19 **Q. WHY IS IT NOT APPROPRIATE TO APPLY TRAFFIC IN THE SAME**
20 **RATIO AS THE IDENTIFIED TRAFFIC?**

21 A. This agreement only covers IntraLATA traffic. Only IntraLATA traffic should be
22 delivered on the truck group therefore there is only one type of traffic delivered to
23 Horry. If VNXX or other non-physically located traffic is sent on the trunk

² See Darnell Testimony, page 33 line 10.

1 group, it would be difficult for Horry to identify the traffic as toll traffic without
2 the JIP. Further, Horry has requested that IntraLATA traffic be mutually
3 exchanged. Without all the information needed to conduct audits, MCI could use
4 rate arbitrage by making traffic appear as local or IntraLATA and thus subject to
5 reciprocal compensation when the traffic was toll traffic and should be subject to
6 access charges. Essentially, Horry is providing a free pass on traffic up to 10%.
7 After the 10% threshold is reached, the non-identified traffic is billed at the access
8 rate.

9
10 **Q. SHOULD THE COMMISSION REQUIRE THE PARTIES TO PAY**
11 **ACCESS CHARGES ON TRAFFIC THAT DOES NOT HAVE A JIP**
12 **ASSOCIATED WITH IT IN THE EVENT LESS THAN 90% OF TRAFFIC**
13 **HAS AN ASSOCIATED JIP, AS PROPOSED IN ISSUE #6?**

14 **A.** Yes. These types of provisions are common in agreements and help ensure
15 compliance with the terms and conditions. This provision only requires MCI to
16 pay the proper compensation for traffic that is misrepresented. Horry has allowed
17 a 10% grace factor for unidentified traffic to account for occasional technical
18 problems or particular customer issues. This grace factor is generous when
19 considering MCI has full control over the JIP and CPN on the traffic originated on
20 its network.

**ISSUE #8: SHOULD PARTIES PROVIDE THE SPECIFIED SIGNALING
PARAMETERS ON ALL CALLS, AND WHO IS RESPONSIBLE
FOR THE ACCURACY OF THE SIGNALING PARAMETERS?**

Q. WHAT IS THE DISPUTE WITH RESPECT TO ISSUE #8?

A. Issue #8 needs to be addressed in two parts. The first part of the issue is whether signaling parameters should be included on all calls. Horry believes that signaling parameters are required to support the proper operation and intercarrier billing of calls on the network. The second part of the issue is who is responsible for the signaling parameters. Horry's position is that each party is responsible for the accuracy of the signaling information it passes to the other party.

**Q. WHY IS THERE A REQUIREMENT FOR 90% OF THE CPN AND JIP
INCLUDED IN THE DISPUTED LANGUAGE IN ISSUE #6 WHILE
ISSUE #8 REQUIRES SIGNALING INFORMATION TO BE INCLUDED
ON ALL CALLS?**

A. In Issue #6, the 90% factor allows a 10% grace factor of traffic before access charges are assessed. This grace factor allows for intermittent technical problems and occasional customer issues. The concern with this Issue #8, on the other hand, relates both to what is required to actually process the call and to the billing portions of the signaling message. If Horry does not receive the required signaling information, the call cannot be processed. Therefore, the information is needed on 100% of the calls. Horry would also like to have all the billing and

1 feature signaling on 100% of the calls. The carriers' commitment to provide this
2 information allows the end user's caller ID, caller name, and other features to
3 work properly and allows for accurate billing between carriers. There is no
4 penalty in this Issue #8 if the information is not included, but both parties should
5 be including the signaling information on all calls.

6
7 **Q. DOES MCI HAVE CONTROL OVER THE SIGNALING PARAMETERS**
8 **FOR THE TRAFFIC INCLUDED IN THIS AGREEMENT?**

9 A. Yes. The only traffic that is governed by this agreement is IntraLATA traffic that
10 is originated and terminated to each other's end users. As stated in Douglas
11 Meredith's testimony, the exchange of traffic is between the originating and
12 terminating carriers. An intermediate carrier may act as a transport agent for
13 physical interconnection but the traffic exchange is not part of that physical
14 interconnection. This agreement for traffic exchange is limited to traffic that
15 originates or terminates to MCI end user customers. MCI has direct control over
16 the signaling information provided from its end users. MCI apparently is not
17 questioning the requirement to provide signaling such as TCAP messages that
18 provide information for services like caller ID, but is concentrating its concern on
19 JIP and CPN. As I discussed above, MCI's switch can provide JIP. MCI also is
20 in control of the CPN information both on single line customers and PBX
21 customers. Horry is very concerned with MCI's lack of commitment to provide
22 information that allows customer features to operate and insures accurate billing.

1 **Q. WHY IS MCI'S AGREEMENT TO PASS ALONG THE INFORMATION**
2 **IT RECEIVES FROM OTHERS NOT SUFFICIENT FOR HORRY?**

3 A. MCI's agreement to pass along the information it receives from others shifts the
4 responsibility for providing signaling to a third party that is not part of this
5 agreement. Horry does not have a relationship with the third party and has no
6 authority to enforce standards or requirements. MCI should not be allowed to
7 pass along information that is harmful to the network. Horry takes responsibility
8 for its end users' signaling information and transmission of signals on the
9 network. MCI must take the same responsibility for its customers.

10
11 In addition to network harm, MCI can shift the responsibility for fraud to a third
12 party. If MCI only passes along information, it shifts any responsibility for the
13 misrepresentation of traffic to a third party. Just like legal businesses launder
14 illegal money to make it look legal, MCI could provide a front that makes illegal
15 traffic look legitimate, while not taking any responsibility for its customers'
16 actions.

17
18 **Q. HOW SHOULD THE COMMISSION RESOLVE ISSUE #8?**

19 A. The Commission should rule that the Horry-proposed language be accepted. The
20 "Passed along as received" language should be rejected. Including such language
21 would encourage MCI to push responsibility to third parties who have no
22 obligations under this agreement and potentially not even under the

1 Telecommunications Act, state telecommunications law, or related state or federal
2 regulations.

3
4 **ISSUE #9: SHOULD THE PARTIES BE PROVIDING SERVICE DIRECTLY**
5 **TO THE USERS TO PORT NUMBERS?**
6

7
8 **Q. WHAT OBLIGATIONS DOES A LEC HAVE REGARDING NUMBER**
9 **PORTABILITY?**

10 A. While there are other types of number portability, service provider portability is
11 the only type of portability that Horry is required to provide under Section 251 of
12 the Act.
13

14 **Q. WHAT IS THE DEFINITION OF SERVICE PROVIDER LOCAL**
15 **NUMBER PORTABILITY?**

16 A. The FCC's definition of service provider portability is:

17 The term service provider portability means the ability of
18 users of telecommunications services to retain, at the same
19 location, existing telecommunications numbers without
20 impairment of quality, reliability, or convenience when
21 switching from one telecommunications carrier to another.
22 (47 CFR § 52.21(q))
23

1 **Q. IS HORRY WILLING TO PROVIDE SERVICE PROVIDER**
2 **PORTABILITY TO MCI FOR MCI END USER CUSTOMERS?**

3 A. Yes. The dispute in this issue does not relate to service provider local number
4 portability between Horry and MCI end user customers. The dispute deals solely
5 with MCI's desire for Horry to provide number portability from Horry through
6 MCI to a third party with whom Horry does not have an agreement.

7
8 **Q. DOES A NUMBER PORTED BY AN HORRY END USER TO A VOIP**
9 **SERVICE PROVIDER VIA MCI FALL WITHIN THE DEFINITION AND**
10 **REQUIREMENTS OF SERVICE PROVIDER PORTABILITY?**

11 A. No. The definition of service provider portability has several criteria. First, the
12 same end user must retain the number both before and after the port. This means
13 Horry's customer wishing to port must have control of the number as the end user
14 changes carriers. Second, the end user must be in the same location before and
15 after the port. Third, the end user must have telecommunications service before
16 and after the port. Fourth, the end user must be switching from one
17 telecommunications carrier to another telecommunications carrier. MCI's
18 proposal fails to satisfy several of these criteria.

19
20 An argument can be made that the first criterion is not satisfied. MCI has stated
21 that it is the carrier that is going to port the number and that Time Warner Cable
22 Information Services, LLC (TWCIS) is its customer. If this is true, then the
23 number is being ported from the Horry end user customer to MCI's customer –

1 *i.e.*, TWCIS – and the customer is not the same before and after the port. If
2 control of the number has been transferred to another customer – from the Horry
3 residential end user to TWCIS – it is unclear who retains control of the number.
4 For example, an Horry end user porting his number to TWCIS may not be able to
5 subsequently port this number to another VoIP service provider or another
6 telecommunications carrier, or even to return his service to Horry.

7
8 The third criterion is not satisfied. According to TWCIS, it does not offer
9 telecommunications service. The third criterion would not be met because the
10 end user does not have telecommunications service after the port is complete.
11 The end user has contracted with TWCIS for a VoIP service, not with MCI for a
12 telecommunications service.

13
14 The fourth criterion also fails in this instance. Even if a port were to occur to
15 TWCIS – which is the provider of services to its end users – the residential end
16 user is not being served by a telecommunications carrier.

17
18 **Q. IF MCI IS SELLING TELECOMMUNICATIONS SERVICES, WHY**
19 **DOES THE PORT NOT COMPLY WITH THE DEFINITION OF**
20 **SERVICE PROVIDER PORTABILITY?**

21 A. MCI proposes to sell wholesale telecommunications services to TWCIS. TWCIS
22 has stated it seeks to sell VoIP service to its end users. The definition of porting
23 requires the user of telecommunications service to be the same entity before and

1 after the port. Mr. Darnell misrepresents the porting requirement by commenting
2 on only one of the four criteria for porting.³ TWCIS is a user of wholesale
3 telecommunications service from MCI but it is not the end user of
4 telecommunications service where the telephone number was assigned. The end
5 user, not TWCIS, is the customer that had the number before the port. After the
6 port, this customer does not receive any telecommunications service.⁴

7
8 **Q. IS THERE A PUBLIC INTEREST ISSUE WITH PORTING NUMBERS**
9 **TO MCI FOR A VOIP SERVICE PROVIDER'S END USERS?**

10 A. Yes. Telecommunications carriers have obligations surrounding porting of
11 telephone numbers while other companies do not. As mentioned in the first
12 criterion, it is important that the end user at the beginning of the port controls the
13 number after the port. If a VoIP service provider controls the number it could
14 deny the end user the ability to port the number back to Horry or to any other
15 carrier. This is because the VoIP service provider may not be a
16 telecommunications service provider and, therefore, would not have any porting
17 obligation under the Act.

18
19 This concern is also apparent in the aftermath of the SBC Internet Services, Inc.
20 ("SBCIS") waiver. Pac-West states correctly in its Petition for Clarification of
21 the FCC's decision:

³ Darnell Testimony at page 14, lines 8-9.

⁴ See *Vonage Holdings Corp., Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, FCC 04-267, Memorandum Opinion and Order, ("Vonage Order"), (rel. Nov. 12, 2004). FT 46 "We do not determine the statutory classification of Digital Voice under the Communications Act, and thus do not decide here the appropriate federal regulations, if any, that will govern this service in the future."

1 Thus, by issuing the Waiver Order, the [FCC] has cast
2 confusion on the related issue of whether these entities
3 [VoIP providers] will remain users of telecommunications
4 services such that they have no legal obligation to port
5 telephone numbers to other providers of communications
6 services, including traditional providers of
7 telecommunications services. . . .
8

9 (Petition for Clarification of Pac-West Telecomm, Inc., CC Docket No. 99-200,
10 March 3, 2005 at 4) Further, there remains an important public policy question:
11 whether VoIP providers are obligated to comply with federal slamming rules (See
12 47 CFR § 64 subpart K) when functioning as a non-telecommunications carrier.
13 If these obligations do not apply to VoIP providers, important consumer
14 protections for South Carolina customers will be lost. If the Commission were to
15 adopt MCI's position, I believe these obligations will be avoided by VoIP
16 providers.
17

18 **Q. MR. DARNELL SUGGESTS THAT THE SERVICE PROVIDER**
19 **DEFINITION USES THE WORD "USERS" AND NOT "END USERS."**
20 **DO YOU AGREE THIS SUPPORTS MCI'S POSITION?**

21 A. No. I believe Mr. Darnell has taken too narrow a view of this definition. As I
22 mentioned previously, the residential user is not TWCIS. Thus, under the
23 definition, "the ability of users of telecommunications services to retain" suggests
24 that the "users" are the same entities before and after the port. Under MCI's own
25 logic, the "user" would change and thus render the words "to retain" meaningless.
26

1 **Q. HAS THE FCC GRANTED VOIP PROVIDERS THE ABILITY TO PORT**
2 **NUMBERS?**

3 A. No. The FCC has not altered its rules on porting obligations, which only apply to
4 telecommunications services and telecommunications carriers. There has been
5 some discussion concerning VoIP, but no new obligations have been imposed.
6 MCI cites several FCC orders in trying to find support for its position, but none of
7 the FCC's orders addresses porting to VoIP services. To the contrary, one of the
8 orders specifically refers to service provider portability, as described by Horry.

9
10 **Q. DOES THE WAIVER GRANTED BY THE FCC TO SBC INTERNET**
11 **SERVICES (SBCIS) INCLUDE THE ABILITY TO PORT NUMBERS FOR**
12 **VOIP SERVICE?**

13 A. No. The SBCIS waiver⁵ allows SBCIS to obtain numbering resources directly
14 from the North American Numbering Plan Administrator for continuation of its
15 trial service. This order is limited to SBCIS obtaining numbers and does not
16 apply to porting between carriers. Under the waiver, SBCIS may attract new
17 customers to its VoIP service with numbers that are used only for SBCIS' VoIP
18 trial. The waiver does not allow SBCIS to port telecommunications numbers to
19 its VoIP service. The FCC order grants only a limited waiver to a specific carrier
20 for specific purposes. It does not represent a general change in policy for the
21 FCC. Policy regarding VoIP services is being addressed in the FCC's Notice of

⁵ See Order, *In the Matter of Administration of the North American Numbering Plan*, CC Docket No. 99-200, rel. Feb. 1, 2005 ("SBCIS Order").

1 Proposed Rulemaking regarding IP-Enabled Services.⁶ The FCC did not grant all
2 VoIP providers a waiver of its rules. The FCC states: “To the extent other
3 entities seek similar relief we would grant such relief to an extent comparable to
4 what we set forth in this Order.”⁷ MCI has not provided any evidence that either
5 MCI or TWCIS would qualify for “similar relief,” nor has either entity sought
6 such relief from the FCC.

7
8 **Q. HOW DO YOU RESPOND TO MCI’S CONTENTION THAT THE**
9 **MADISON RIVER COMPLAINT SUPPORTS ITS POSITION ON**
10 **NUMBER PORTABILITY?**

11 A. The Madison River complaint⁸ does not involve number portability at all, but only
12 concerns the blocking of VoIP traffic. The FCC’s press release states:
13 “According to the terms of the consent decree, Madison River commits that it will
14 refrain from blocking VoIP traffic and ensure that such blocking will not recur.”⁹
15 There is no mention of number portability in this case. MCI erroneously applies
16 this order addressing traffic to the porting of telephone numbers. The two are not
17 linked.

18

⁶ *IP-Enabled Services*, WC Docket No. 04-36, *Notice of Proposed Rulemaking*, at ¶ 76 (2004).

⁷ *SBCIS Order* at ¶ 11.

⁸ File No. EB-05-IH-0110, Acct. No. FRN: 0004334082.

⁹ Press Release, Federal Communications Commission, *FCC Chairman Michael K. Powell Commends Swift Action to Protect Internet Voice Services* (March 3, 2005).

1 **Q. DOES THE OBLIGATION TO PROVIDE NON-DISCRIMINATORY**
2 **NUMBER PORTING BETWEEN LOCAL EXCHANGE CARRIERS**
3 **INCLUDE THE OBLIGATION TO PORT NUMBERS TO VOIP SERVICE**
4 **PROVIDERS?**

5 A. No. The FCC recently confirmed its position that local exchange carriers (LECs)
6 have an obligation to provide non-discriminatory porting to other LECs. The
7 non-discrimination at issue in that case¹⁰ and in prior FCC rulings deals with
8 LECs who refused to port because of other services provided or contract issues
9 with the end user customer. For example, the FCC found that LECs cannot delay
10 a port on the basis that the customer would no longer be eligible for DSL
11 service.¹¹ Likewise, a LEC may not delay a port because the customer owes
12 termination fees or other back payments to the LEC.¹² The BellSouth order
13 specifically refers to “non-porting related restrictions on the porting out process.”
14 In other words, the FCC has found that LECs cannot use non-porting-related
15 reasons as the basis for denying porting. In the present case, on the other hand,
16 the porting restriction is based on the porting eligibility (or lack of eligibility) of
17 the service – *i.e.*, it is a porting eligibility issue as opposed to a “non-porting
18 related restriction.”

¹⁰ WC Docket No 03-251, Order, *BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Service to Competitive LEC UNE Voice Customers* (March 25, 2005).

¹¹ *Id.* at ¶ 36.

¹² CC Docket 95-116, FCC 03-237, *In the Matter of Telephone Number Portability – Carrier Requests for Clarification of Wireless-Wireless Porting Issues* (2003), at ¶¶ 14-16.

1 In addition, MCI refers to the FCC's order in CC Docket No. 95-116,¹³ which
2 specifically addresses service portability between two telecommunications
3 carriers providing telecommunications service to the end user. There is no
4 reference in the FCC order to VoIP or non-telecommunications service provided
5 to the end user.

6
7 **Q. WHERE WILL VOIP POLICIES BE SET?**

8 A. The FCC has issued an NPRM on VoIP services.¹⁴ The result of this NPRM is
9 intended to address the major issues facing VoIP services and providers. In the
10 Vonage Order¹⁵ the FCC stated that the NPRM would address issues such as the
11 classification of VoIP service, intercarrier compensation, and the role of states in
12 VoIP regulation. In the SBCIS order, the FCC also references the IP-Enabled
13 Services NPRM as the appropriate docket in which to address the overall
14 numbering issues associated with VoIP services in general.¹⁶

15
16 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION ON**
17 **THIS ISSUE?**

18 A. I recommend the Commission determine that what MCI is requesting does not fall
19 within the definition of service provider portability and, therefore, Horry is not

¹³ CC Docket No. 95-116, Memorandum Opinion and Order, 18 FCC Rcd 20971 at ¶ 11 (2003).

¹⁴ See generally, *IP-Enabled Services*, 19 FCC Rcd 4863 (2004).

¹⁵ See *Vonage Holdings Corp., Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, FCC 04-267, Memorandum Opinion and Order, ("Vonage Order") (rel. Nov. 12, 2004), at fn 46 "We do not determine the statutory classification of Digital Voice under the Communications Act, and thus do not decide here the appropriate federal regulations, if any, that will govern this service in the future."

¹⁶ CC Docket 99-200, *Administration of the North American Numbering Plan*, FCC 05-20 at ¶ 2 ("SBCIS Order") ("In addition, SBCIS limits its waiver request in duration until we adopt final numbering rules in the *IP-Enabled Services* proceeding.")

1 obligated to provide the service requested by MCI. The Commission should
2 adopt Horry's proposed language in the interconnection agreement.

3
4 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

5 A. Horry urges the Commission to adopt Horry's proposed language on the three
6 signaling issues #1, #6, and #8 because it is the industry standard to include JIP
7 and CPN, it is technically feasible for MCI to implement these standards, and it
8 promotes accurate billing of intercarrier compensation. In addition, Horry
9 proposes that MCI be responsible for the accuracy of the signaling information
10 passed to Horry's network. The parties should not be allowed to pass
11 responsibility for lack of signaling parameters or inaccurate parameters to third
12 parties that are not part of this agreement. Including both CPN and JIP along with
13 an enforcement tool and ability to audit encourages both Parties to comply with
14 all of the Commission's rules on call jurisdiction and rating based on the physical
15 location of the customer.

16
17 The Commission should also adopt Horry's language on number portability. LNP
18 is specifically reserved by the Telecommunications Act for telecommunications
19 services and telecommunications providers. The indirect porting of numbers to
20 MCI, which intends to act as a wholesale provider for TWCIS, does not meet the
21 criteria of the Act. The FCC has not made any changes in the porting obligations.
22 The policy issues surrounding the treatment of VoIP should be addressed in the
23 FCC's IP-Enabled Services NPRM where the entire industry has the opportunity

1 to participate. The law and rules must be enforced as written and not
2 implemented based on some vague assumptions about what may happen some
3 time in the future. Horry's proposed language is consistent with current rules and
4 regulations and should be adopted by the Commission.

5
6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 **A. Yes.**

BEFORE

THE PUBLIC SERVICE COMMISSION

OF

SOUTH CAROLINA

Docket No. 2005-188-C

RECEIVED
2005 SEP -2 PM 2:55
SOUTH CAROLINA
PUBLIC SERVICE
COMMISSION

TESTIMONY OF DOUGLAS DUNCAN MEREDITH

Q. PLEASE STATE YOUR FULL NAME, PLACE OF EMPLOYMENT, AND BUSINESS ADDRESS.

A. My full name is Douglas Duncan Meredith. I am employed by John Staurulakis, Inc. (JSI). JSI is a telecommunications consulting firm headquartered in Seabrook, Maryland. My office is located in a suburb of Salt Lake City, Utah (547 Oakview Lane, Bountiful, Utah 84010).

Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND EDUCATIONAL BACKGROUND.

A. At JSI, I am the Director of Economics and Policy. In this capacity, I assist clients with the development of policy pertaining to economics, pricing and regulatory affairs. I have been employed by JSI since 1995. Prior to my work at JSI, I was an independent research economist in the District of Columbia and a graduate student at the University of Maryland – College Park.

1 In my employment at JSI, I have participated in numerous proceedings for rural
2 and non-rural telephone companies. These activities include, but are not limited
3 to, the creation of forward-looking economic cost studies, the development of
4 policy related to the application of the rural safeguards for qualified local
5 exchange carriers, the determination of Eligible Telecommunications Carriers
6 (“ETC”), and the sustainability and application of universal service policy for
7 telecommunications carriers.

8
9 In addition to assisting telecommunications carrier clients, I have served as the
10 economic advisor for the Telecommunications Regulatory Board of Puerto Rico
11 since 1997. In this capacity, I provide economic and policy advice to the Board
12 Commissioners on all telecommunications issues that have either a financial or
13 economic impact.

14
15 I participate or have participated in numerous national incumbent local exchange
16 carrier and telecommunications groups, including those headed by NTCA,
17 OPASTCO, USTA, and the Rural Policy Research Institute. My participation in
18 these groups focuses on the development of policy recommendations for
19 advancing universal service and telecommunications capabilities in rural
20 communities and other policy matters.

21
22 I have testified or filed pre-filed regulatory testimony in various states including
23 South Carolina, Vermont, New Hampshire, New York, Michigan, North Dakota,

1 South Dakota, Texas and Wisconsin. I have also participated in regulatory
2 proceedings in many other states that did not require formal testimony, including
3 Florida, Louisiana, Mississippi, North Carolina, Puerto Rico, Utah, and Virginia.
4 In addition to participation in state regulatory proceedings, I have participated in
5 federal regulatory proceedings through filing of formal comments in various
6 proceedings and submission of economic reports in an enforcement proceeding.

7
8 I have a Bachelor of Arts degree in economics from the University of Utah, and a
9 Masters degree in economics from the University of Maryland – College Park.
10 While attending the University of Maryland – College Park, I was also a Ph.D.
11 candidate in Economics. This means that I completed all coursework,
12 comprehensive and field examinations for a Doctorate of Economics without
13 completing my dissertation.

14
15 **Q. ON WHOSE BEHALF ARE YOU PRESENTING THIS PRE-FILED**
16 **DIRECT TESTIMONY?**

17 **A.** I am testifying on behalf of Horry Telephone Cooperative, Inc. (“Horry”).
18

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 **A.** I address the following Issues: 2, 3, 4, 5, 7, and 10. I provide testimony
21 supporting Horry’s position on each of these issues. Ms. Valerie Wimer’s
22 testimony will address the remaining issues in this arbitration on behalf of Horry.
23

1 The issues that I address in my testimony are grouped conceptually into three
2 topics for discussion purposes as follows: Topic (1) Direct vs. Indirect Service
3 (Issues 2, 4(a), and 7); Topic (2) ISP-Bound Traffic and Virtual NXX (Issues 3,
4 4(b), and 5); Topic (3) Reciprocal Compensation Rate (Issue 10).

5
6 Each of the unresolved issues in this arbitration is of critical importance to Horry
7 and to the rural incumbent local exchange industry in general. Each of these
8 issues has the potential to severely impact the operations and economic viability
9 of Horry, because each issue is related to a fundamental underpinning of the legal
10 and business environment in which Horry operates. For example, if MCI were
11 permitted to obtain interconnection from Horry in order to serve as a private
12 carrier or aggregator for other entities (which may or may not themselves be
13 telecommunications service providers), it would have the effect of opening
14 Horry's rural market to competition in a manner that goes well beyond what was
15 intended by the federal Telecommunications Act of 1996. This could have a
16 devastating impact on the ability of rural carriers like Horry to continue to provide
17 universally available local exchange service at affordable rates in rural areas.

1 **TOPIC 1: DIRECT VS. INDIRECT SERVICE**

2 **(ISSUES 2, 4(a), AND 7)**

3

4 **ISSUE 2: Should *End User Customer* be defined as only customers directly**
5 **served by the Parties to the contract?**

6

7 **Q. WHAT IS THE CONTROVERSY SURROUNDING ISSUE 2?**

8 **A.** This issue, as well as other related Issues 4(a), 7, and 9, revolves around the
9 nature of a Section 251 interconnection agreement. The matter ultimately reduces
10 to whether an intermediary carrier, MCI, is entitled to seek a local interconnection
11 with Horry for the purpose of exchanging traffic for a third party, in this case
12 Time Warner Cable Information Services (“TWCIS”), which is a VoIP service
13 provider offering VoIP service. In Issue 2, the question is whether the word
14 “indirectly” should be included in the definition of *End User Customer* as MCI
15 proposes.

16

17 Horry asserts that the carrier directly serving the end user customer is the only
18 carrier entitled to request interconnection for the exchange of traffic under Section
19 251. Other telecommunications carriers providing local exchange service to
20 customers and wishing to exchange traffic with Horry must establish individual
21 interconnection or traffic exchange agreements with Horry.

1 **Q. RELYING ON SECTION 251(A) OF THE ACT, MCI ASSERTS THAT**
2 **“‘INDIRECT’ SERVICE TO CUSTOMERS IS EXPRESSLY**
3 **RECOGNIZED UNDER THE ACT.” (MCI PETITION AT PAGE 7) IS**
4 **THIS ASSERTION CORRECT?**

5 **A.** No. MCI’s reliance on Section 251(a) of the Act to conclude that the Act
6 expressly recognizes “indirect” service to customers is misplaced. Section 251(a)
7 of the Act addresses obligations of all telecommunications carriers to physically
8 interconnect directly or indirectly with other telecommunications carriers. Section
9 251(a) does not address “indirect” service to end user customers nor indirect
10 exchange of traffic.
11

12 **Q. DOES THE ACT OR DO FCC REGULATIONS PROVIDE FOR A**
13 **TELECOMMUNICATIONS CARRIER THAT DOES NOT DIRECTLY**
14 **SERVE AN END USER CUSTOMER TO INTERCONNECT WITH A**
15 **LOCAL EXCHANGE CARRIER (LEC) UNDER SECTION 251 FOR THE**
16 **EXCHANGE OF THAT END USER’S TRAFFIC?**

17 **A.** No. The rules for interconnection contemplate that an interconnection agreement
18 for the exchange of traffic for telephone exchange service will be between the
19 parties whose end users originate and terminate telecommunications. Horry
20 understands that MCI seeks agreement with Horry in order to provide access to
21 the Public Switched Telephone Network (PSTN) for TWCIS. From its filing for
22 certification for non-rural areas in South Carolina, TWCIS’ stated purpose is to
23 provide “facilities-based Internet Protocol (‘IP’) voice services targeted to the

1 residential market.” (Public Service Commission of South Carolina, Order No.
2 2004-213, Docket No. 2003-362-C, May 24, 2004 at 4). TWCIS seeks to
3 exchange its end user VoIP services with Horry through its relationship with
4 MCI. (Id. at 5)

5
6 **Q. HOW DOES SECTION 251 REFER TO PARALLEL DUTIES BETWEEN**
7 **LOCAL EXCHANGE CARRIERS AND THEREBY MAKE IT**
8 **INAPPROPRIATE TO INSERT THE WORD “INDIRECT” INTO THE**
9 **DEFINITION OF END USER CUSTOMER?**

10 **A.** The FCC’s rules implementing interconnection uniformly address interconnection
11 as a bilateral agreement between two carriers each serving end user customers
12 within the same local calling area. Section 251(b) describes duties for each “local
13 exchange carrier” with respect to other “local exchange carriers.” The FCC’s
14 *Local Competition Order* discusses the exchange of traffic for local
15 interconnection purposes in which two carriers collaborate to complete a local
16 call. (*Local Competition Order*, CC Docket 96-98, FCC 96-325 at ¶1034)

17
18 The limitation that two carriers directly serving local customers must provide for
19 the exchange of traffic through an interconnection agreement makes sense
20 because the duties imposed by Section 251(b) of the Act are intended to be
21 parallel duties between two carriers. Where MCI acts as an intermediary for a
22 facility-based VoIP service provider, the duties of Horry and the VoIP service
23 provider are not parallel because the VoIP service provider is not required to

1 provide dialing parity or local number portability, as the VoIP service provider is
2 not designated as a telecommunications service provider at this time.

3
4 Lastly, the FCC's regulation on reciprocal compensation specifically refers to the
5 direct relationship of the carrier to the end user customers in the exchange of
6 traffic.

7 For purposes of this subpart, a reciprocal compensation
8 arrangement between two carriers is one in which each of
9 the two carriers receives compensation from the other
10 carrier for the transport and termination on each carrier's
11 network facilities of telecommunications traffic that
12 originates on the network facilities of the other carrier.
13

14 (47 CFR § 51.701(e)) (Emphasis supplied). Horry wants the traffic exchanged
15 with MCI to include only intraLATA traffic directly generated by MCI end user
16 customers. The Commission should reject the language proposed by MCI and
17 instead adopt Horry's proposed language for Issue 2.

18
19 **Q. MR. DARNELL USES AN OHIO DECISION TO SUPPORT THE**
20 **INSERTION OF THE WORD 'INDIRECT' IN THIS DEFINITION**
21 **(DARNELL DIRECT AT PAGE 7, LINE 9 THROUGH PAGE 8, LINE 2).**
22 **WHAT IS YOUR RESPONSE?**

23 **A.** The Ohio case referenced by Mr. Darnell addressed whether an incumbent carrier
24 can avoid interconnection with MCI. The question in Ohio was whether or not
25 MCI was acting as a carrier when it provided exclusive services to a VoIP service
26 provider.

1 The Act and court decisions support Horry's position that MCI is not entitled to
2 interconnection to act as an intermediary for a third party that will, in turn,
3 provide services to end users. "Telecommunications carrier" is defined in the
4 federal Act as a provider of telecommunications service.¹ "Telecommunications
5 service" means "the offering of telecommunications for a fee *directly to the*
6 *public*, or to such classes of users as to be effectively available directly to the
7 public, regardless of the facilities used."² Applying these definitions to the
8 situation here, to the extent MCI seeks to provide service to Time Warner Cable
9 Information Services, LLC ("TWCIS"), as both MCI and TWCIS have stated, or
10 indirectly to TWCIS' end user customers, such service does not meet the
11 definition of "telecommunications service" under the Act and, therefore, MCI is
12 not a "telecommunications carrier" with respect to those services. Thus, MCI is
13 not entitled to seek interconnection with Horry with respect to the service MCI
14 proposed to provide indirectly to TWCIS' end user customers.

15
16 This reasoning is consistent with the United States Court of Appeals for the
17 District of Columbia Circuit's interpretation of the Act. The Court has held that,
18 when a carrier is not offering service "directly to the public, or to such classes of
19 users to be effectively available directly to the public," that carrier is not a
20 telecommunications carrier providing telecommunications service under the Act
21 with respect to that service.³ Under this precedent, Horry has properly required
22 that the traffic exchanged under this Interconnection Agreement with MCI be

¹ Section 153(44) of the Act.

² Section 153(46) of the Act.

³ *Virgin Islands Telephone Corp. v. FCC*, 198 F.3d 921 (D.C. Cir. 1999).

1 limited to traffic generated by the end user customers directly served by the
2 parties.

3
4 Other states have addressed the same issue that is presently before the
5 Commission. The Iowa Utilities Board (“Iowa Board”) dismissed a request by
6 Sprint Communications Company, L.P. (“Sprint”) to interconnect with twenty-
7 seven rural carriers for the purpose of providing interconnection and services to a
8 cable company that would, in turn, serve the end user customers.⁴ The Iowa
9 Board found that Sprint’s service was not being offered on a common carrier
10 basis but to “its private business partners pursuant to individually negotiated
11 contracts,” and that Sprint, therefore, was not a telecommunications carrier under
12 the Act, pursuant to the precedent of the *Virgin Islands* decision.

13
14 The Ohio Public Utilities Commission decision cited by MCI⁵ is not persuasive.
15 As the Iowa Board specifically noted, the Ohio Commission failed to even
16 mention the D.C. Circuit Court’s *Virgin Islands* decision and the related FCC
17 rulings.⁶ The Iowa Board found the Ohio Commission’s decision to be “of little
18 help in [its] proceeding.”⁷

19

⁴ *In re Arbitration of Sprint Communications Co. v. Ace Communications Group, et al.*, Iowa Util. Bd., Docket No. ARB-05-2, Order Granting Motions to Dismiss (rel. May 26, 2005), 2005 WL 1415230 (slip opinion) (“*Iowa Board Order*”).

⁵ See *In re the Application and Petition in Accordance with Section II.A.2.b of the Local Service Guidelines* filed by The Champaign Telephone Company, et al., Case No. 04-1494-TP-UNC, Finding and Order (issued January 26, 2005), Order on Rehearing (issued April 13, 2005).

⁶ *Iowa Board Order* at 15.

⁷ *Id.*

1 Other state decisions addressing similar issues are not controlling.⁸ It is important
2 to note that, unlike rural local exchange carriers in some other states, Horry is not
3 arguing that it should not be required to interconnect with MCI *at all*; it merely
4 seeks to limit the Interconnection Agreement so that it applies to interconnection
5 and the exchange of traffic between end user customers served directly by the
6 parties, as intended by the Act. Horry wants to have a direct relationship with
7 each telecommunications carrier that actually provides service to the end user
8 customer. This objective has been achieved with sixteen (16)
9 interconnection/resale agreements that Horry has entered into with competitive
10 providers.

11
12 This Commission should focus on the language and intent of the Act, as well as
13 the findings and implications of the D.C. Circuit Court's opinion in the *Virgin*
14 *Islands* case and the related FCC rulings discussed therein, and should limit the
15 parties' exchange of traffic to traffic generated by the end user customers directly
16 served by the respective parties.

⁸ See, e.g., Order, *Cambridge Telephone Company, et. al., in Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties Under §§ 251(b) and (c) of the Federal Telecommunications Act*, No. 05-0259-0265, -0270, -0275, -0277, and -0298, Illinois Commerce Commission (July 13, 2005). (*Illinois Commerce Commission order*) (petition for reconsideration pending); Order Resolving Arbitration Issues, *Petition of Spring Communications, L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Inter-carrier Agreement with Independent Companies*, Case 05-C-0170, State of New York Public Service Commission (May 24, 2005).

1 **Q. SHOULD MCI BE PERMITTED TO SEEK INTERCONNECTION WITH**
2 **HORRY TO PROVIDE INTERMEDIARY SERVICES TO A VOIP**
3 **PROVIDER?**

4 **A.** No. MCI is not entitled to an interconnection agreement with Horry to provide
5 intermediary services to VoIP service providers seeking to exchange traffic with
6 Horry. It is well known that MCI desires to be an intermediary provider and
7 seeks to use a Section 251 interconnection agreement to make arrangements for
8 the exchange of intraLATA traffic between Horry and VoIP service providers. It
9 is inappropriate and outside the domain of an arbitration to bestow MCI the
10 intermediary benefits it seeks. Rather, if a VoIP service provider desires to
11 exchange telecommunications traffic with Horry, it should propose to negotiate an
12 agreement with Horry directly.

13
14 **Q. IS THE TERM “END USER CUSTOMER” DEFINED BY THE**
15 **COMMUNICATIONS ACT OF 1934, AS AMENDED?**

16 **A.** No. The term “end user customer” is not defined by the Act. However the term
17 “user” is used in the definition of “telecommunications”; and this definition
18 conveys the concept of “end user customer.” Specifically, “telecommunications”
19 is defined as:

20 Telecommunications.--The term "telecommunications"
21 means the transmission, between or among points specified
22 by the user, of information of the user's choosing, without
23 change in the form or content of the information as sent and
24 received.
25
26

1 Additionally, when the FCC uses the term “telecommunications user” in defining
2 access to emergency services, it refers to the end user performing the dialing of
3 911. This use also conveys the same meaning of the term “end user customer.”
4 (See 47 CFR § 54.101(a)(5)) Lastly, the FCC uses the term “end user customer”
5 in its rules regarding local loop unbundling to indicate the end user customer is at
6 the end of a loop connecting it to the local exchange carrier (LEC) central office.
7 (See e.g., 47 CFR § 51.319(a)).

8
9 The proposed use of the term “end user customer” conforms to the definition of
10 “end user” in the American Heritage Dictionary, 4th Edition which states that an
11 “end user” is “the ultimate consumer of a product, especially the one for whom
12 the product has been designed.”

13
14 **Q. ON PAGE 8, LINES 4 – 11, OF HIS DIRECT TESTIMONY, MR.**
15 **DARNELL SUGGEST THAT HORRY HAS ALREADY AGREED TO**
16 **LANGUAGE IN THE AGREEMENT REGARDING ‘DIRECTLY OR**
17 **INDIRECTLY’ IN THE DEFINITION OF INTEREXCHANGE CARRIER**
18 **(SECTION 2.23). DO YOU AGREE?**

19 **A.** No. The parties have agreed to the following definition of interexchange carrier:
20 A Telecommunications Carrier that provides, directly or indirectly, InterLATA or
21 IntraLATA telephone toll services.

1 In this case, the reference to ‘indirectly’ is in the context of an IXC that resells
2 another IXC’s service. The comparison between this circumstance and what MCI
3 is attempting is an apples-to-oranges comparison.
4

5 I understand that Horry does not have any difficulty giving a telecommunications
6 provider the opportunity to directly or indirectly interconnect with Horry’s
7 network. However, this type of interconnection does not permit a third party
8 carrier from neglecting its obligation to establish the terms and conditions for the
9 exchange of traffic with Horry. MCI attempts to confuse this issue by suggesting
10 that an IXC definition for a resale arrangement somehow affords MCI the
11 opportunity to establish reciprocal compensation (traffic exchange) arrangements
12 for other parties – who may not even be telecommunications carriers or provide
13 telecommunications services.
14

15 The FCC has very clearly identified the responsibilities for “interconnection” and
16 “traffic exchange.” Interconnection is the physical linking of two networks,
17 directly or indirectly, and traffic exchange is a Section 251(b)(5) duty that
18 involves the actual exchange of traffic over the physical interconnections
19 connecting one party to another. The FCC does not equate interconnection with
20 traffic exchange.
21

1 The duty to interconnect under Section 251(a) of the Act relates to “the physical
2 linking of two networks for the mutual exchange of traffic.”⁹ It does *not* require a
3 carrier to transport and terminate another carrier’s traffic.¹⁰ Transport and
4 termination obligations extend from Section 251(b) of the Act and apply only
5 directly between local exchange carriers.¹¹ Nothing in the Act supports MCI’s
6 contention that indirect *service to end user customers* was contemplated, much
7 less permitted, by the Act. In fact, the FCC’s rules implementing interconnection
8 uniformly address interconnection as a bilateral agreement between two carriers,
9 each serving end user customers within the same local calling area. Section
10 251(b) describes duties for each “local exchange carrier” with respect to other
11 “local exchange carriers.” The FCC’s *Local Competition Order* discusses the
12 exchange of traffic for local interconnection purposes in which two carriers
13 collaborate “to complete a local call.”¹²

14
15 The Act clearly requires parties exchanging traffic from their own end users to
16 make the necessary arrangements for their traffic. These arrangements include
17 the terms and conditions required by Horry in this agreement. MCI’s business

⁹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996), *aff’d in part and vacated in part sub nom. Competitive Telecommunications Ass’n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff’d in part and remanded, AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 119 S. Ct. 721, 142 L. Ed. 2d 835 (1999); Order on Reconsideration, 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996), Third Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 97-295 (rel. Aug. 18, 1997) (“*Local Competition Order*”), at ¶ 11.

¹⁰ See *Total Telecommunications Services, Inc., and Atlas Telephone Company, Inc. v. AT&T Corporation*, File No. E-97-003, FCC 01-84, Memorandum Opinion and Order (rel. Mar. 13, 2001), at ¶ 23 (“In the *Local Competition Order*, we specifically drew a distinction between ‘interconnection’ and ‘transport and termination,’ and concluded that the term ‘interconnection,’ as used in section 251(c)(2), does not include the duty to transport and terminate traffic.”)

¹¹ See Section 251(b)(5); *Local Competition Order*, CC Docket 96-98, FCC 96-325 at ¶ 1034.

¹² See *Local Competition Order*, CC Docket 96-98, FCC 96-325 at ¶ 1034.

1 model appears to be one where the entity originating traffic and delivering it to
2 Horry avoids the specific terms and conditions regarding the treatment of traffic.
3

4 **Q. MR. DARNELL SUGGESTS THAT MCI'S CUSTOMER BASE IS BEING**
5 **RESTRICTED BY THE AGREEMENT. WHAT IS YOUR RESPONSE?**

6 **A.** I disagree. Horry is not preventing MCI from serving any particular end user
7 customer. Horry objects to MCI's proposed intermediary role with a VoIP
8 service provider insofar as MCI seeks to exchange the VoIP service provider's
9 end user traffic with Horry. In this case TWCIS, a VoIP service provider, offers a
10 facilities-based voice service to its own customers, not to MCI customers. (See
11 Time Warner Cable Information Services (South Carolina) LLC tariff at 9 and 14:
12 service "is offered solely to residential Customers who are subscribers to
13 TWCIS's cable modem and/or cable television service;" and "IP Voice Service is
14 offered strictly as an optional feature only to residential customers subscribing to
15 TWCIS's high-speed cable modem data service, to its cable television service, or
16 to both services.") TWCIS is the provider of services to its end users, not MCI.
17 TWCIS, not MCI, must make the necessary arrangements for the exchange of its
18 end user traffic with Horry.

19
20 Furthermore, Mr. Darnell suggests that TWCIS is reselling MCI services.
21 (Darnell Direct at page 7, lines 4-7) This claim is contradicted by TWCIS'
22 assertion that it is a facilities-based provider. (TWCIS Petition to Intervene,
23 Docket No. 2005-67-C at 2) The facts show that TWCIS has a contract with MCI

1 for the exchange of traffic with the Public Switched Telephone Network (PSTN).
2 The only time a TWCIS customer uses MCI's facilities is when a TWCIS-
3 originated call is destined to the PSTN or when a call from the PSTN is destined
4 for a TWCIS customer. The MCI/TWCIS arrangement is a wholesale
5 arrangement between two facilities-based providers – MCI and TWCIS. Resale
6 has nothing to with this relationship. Based on the available evidence I reviewed,
7 TWCIS is not reselling MCI retail services in South Carolina.
8

9 **Q. DOES THE LANGUAGE IN THE AGREEMENT REGARDING**
10 **DIRECTLY SERVING END USER CUSTOMERS LIMIT MCI'S ABILITY**
11 **TO RESELL ITS SERVICES?**

12 **A.** No. Service is "resold" when a facilities-based provider that offers a retail service
13 to end users makes the retail service available to another company that re-brands
14 the service. In this case, resale would take place if MCI were a full facilities-
15 based provider and provided the physical components of the service, such as the
16 loop and the switching. In such a case, MCI would know the customer address,
17 and the end user customer would have to meet all the same criteria MCI sets for
18 those end users customers it serves directly. The only functions that MCI would
19 not perform for a resold service are end-user billing and customer service. These
20 resold customers are still directly served by MCI.
21

22 The arrangement that MCI describes with TWCIS is not resale. MCI is offering
23 wholesale services to TWCIS, not retail services for resale. MCI would provide

switching only for the calls that are to terminate on the PSTN; would acquire ported numbers for TWCIS' use; and would provide physical interconnection. These services are not resold retail services.

Q. ON PAGE 9, LINES 21-22, MCI WITNESS DARNELL STATES THAT, "HORRY'S ACTIONS IN THIS PROCEEDING ARE OBSTRUCTING RESIDENTIAL CUSTOMERS FROM HAVING A CHOICE OF PROVIDERS." DO YOU AGREE WITH HIS STATEMENT?

A. No. Horry is not attempting to obstruct residential customers from having a choice of service providers as MCI witness Darnell suggests in his testimony. However, the rights and obligations of all the parties must be on a level playing field. The regulations must be symmetrical between the interconnecting carriers and service providers so that one carrier does not have a significant regulatory and competitive advantage over the other. No carrier should receive regulatory or competitive rights under the Act without also being subject to the corresponding regulatory and statutory obligations. Equal and balanced regulation for all carriers is the only type of competition that is in the public interest. I have already mentioned the agreements entered into by Horry that establish a balanced approach.

Where MCI intends to act as an intermediary for a facilities-based VoIP service provider (e.g., TWCIS), the VoIP provider would most likely argue that it is currently not required (and may never be required) to provide dialing parity or

1 local number portability and, therefore, the duties of Horry and the VoIP service
2 provider would not be parallel. This type of a nonparallel relationship was not
3 contemplated or provided for under the Act.
4

5 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
6 **REGARDING THIS ISSUE?**

7 **A.** I urge the Commission to reject MCI's claim to include "indirect" in the
8 definition of End User Customer.
9

10 **ISSUE 4(a): Should MCI have to provide service only directly to end users?**
11

12 **Q. WHAT IS THE DISPUTE INVOLVING ISSUE 4(a)?**

13 **A.** This issue deals with whether MCI is entitled to obtain interconnection with
14 Horry in its capacity as an intermediary carrier providing access to the public
15 switched telephone network to a VoIP service provider. For Horry, the matter
16 focuses on whether MCI is entitled to exchange VoIP service provider traffic
17 under this agreement.
18

19 **Q. DOES YOUR RESPONSE TO ISSUE 2 APPLY TO ISSUE NUMBER 4(a)?**

20 **A.** Yes. I incorporate my response to Issue 2 as part of my response to this issue.
21

1 **Q. HOW DOES THE REQUIREMENT TO INTERCONNECT UNDER**
2 **SECTION 251(a) RELATE TO THE DUTY TO ESTABLISH**
3 **RECIPROCAL COMPENSATION FOR THE EXCHANGE OF TRAFFIC**
4 **UNDER SECTION 251(b)(5)?**

5 **A.** There is a very clear difference between these two duties. MCI seemingly blurs
6 the difference in an attempt to justify the indirect exchange of traffic. It attempts
7 to combine the concept of indirect physical interconnection (a Section 251(a)
8 duty) with the exchange of traffic (a Section 251(b)(5) duty). This is contrary to
9 the FCC's interpretation of the Act.

10
11 The term "interconnection" refers only to a linking of networks, directly or
12 indirectly, and does not refer to the exchange of traffic on those linked networks.
13 Section 251(a) states: "Each telecommunications carrier has the duty (1) to
14 interconnect directly or indirectly with the facilities and equipment of other
15 telecommunications carriers. . . ." The FCC has interpreted this requirement. Its
16 rule defines "interconnection" as "the linking of two networks for the mutual
17 exchange of traffic," and not "the transport and termination [exchange] of traffic."
18 (47 CFR § 51.5)

19
20 The difference between "interconnection" for the exchange of traffic and the
21 actual exchange of traffic is very important. The FCC explained this distinction
22 in a case dealing with interconnection and the exchange of traffic:

23 The term interconnection refers solely to the physical
24 linking of two networks, and not the exchange of traffic

1 between networks. In the Local Competition Order we
2 specifically drew a distinction between “interconnection”
3 and “transport and termination,” and concluded that the
4 term “interconnection,” as used in Section 251(c)(2), does
5 not include the duty to transport and terminate traffic.
6 Accordingly, Section 51.5 of our rules specifically defines
7 “interconnection” as the “linking of two networks for the
8 mutual exchange of traffic,” and states that the term “does
9 not include the transport and termination of traffic.” (*Total*
10 *Telecommunications Services, Inc. & Atlas Telephone, Co.,*
11 *Inc. v. AT&T Corp.*, FCC 01-84, rel. Mar 13, 2001)
12

13 Based on this reasoning, the FCC concluded that Section 251(a) did not obligate
14 AT&T to terminate Atlas’ traffic even though AT&T was physically
15 interconnected with Atlas under Section 251(a).
16

17 The D.C. Circuit Court affirmed the FCC’s conclusion in the *Atlas* case that the
18 duty to interconnect under Section 251(a)(1) does not encompass the exchange of
19 traffic between networks. Rather, the duty under Section 251(a)(1) is a duty to
20 interconnect either directly or indirectly, and that indirect interconnection through
21 a meet point established with the regional Bell operating company meets that
22 obligation. (*AT&T Corp. v. FCC*, 317 F.3d 227 (D.C. Cir. 2003) at 235; see also
23 *MCI Metro Access Transmission Services, Inc. v. BellSouth Telecommunications,*
24 *Inc.*, 352 F.3d 872 (4th Cir. 2003), reaching a similar determination)
25

26 Under the FCC’s orders, affirmed by the courts, Horry does not have a duty under
27 Section 251(a)(1) of the Act to exchange local traffic with MCI, or with TWCIS
28 indirectly through MCI. The duty to exchange traffic involves the transport and
29 termination of telecommunications under 251(b)(5). FCC rules require that the

1 compensation for telecommunications traffic exchanged between a LEC and a
2 telecommunications carrier (reciprocal compensation) is “between two carriers
3 and is one in which each of the two carriers receives compensation from the other
4 carrier for the transport and termination on each carrier’s network facilities of
5 telecommunications traffic that originates on the network facilities of the other
6 carrier.” (47 CFR 51.701(e)) (Emphasis supplied)

7
8 Reciprocal compensation is for the mutual exchange of traffic that originates on
9 the network facilities of the two exchanging carriers and not for traffic that
10 originates or terminates on the network facilities of a third party. To the extent
11 that TWCIS is a telecommunications carrier, TWCIS may interconnect indirectly
12 to Horry under Section 251(a), but this does not allow it to exchange traffic with
13 Horry under Section 251(b) *via* MCI without a specific agreement with Horry.
14 MCI may offer wholesale services to TWCIS for the physical interconnection
15 under 251(a) but TWCIS must have a separate agreement directly with Horry that
16 addresses all the 251(b) obligations such as exchange of traffic and number
17 portability.

18
19 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
20 **REGARDING THIS ISSUE?**

21 **A.** This agreement should be limited to the exchange of traffic only between MCI’s
22 end users (defined as Horry proposes) and Horry’s end users. Other types of
23 traffic exchange reside outside the scope of the duties under Section 251 and

1 should not be included in this interconnection agreement. Issue number 4(a)
2 should be resolved using Horry's proposed language.

3
4 **ISSUE 7: Does the contract need the limit of "directly provided" when other**
5 **provisions discuss transit traffic, and the issue of providing service directly to**
6 **end users is debated elsewhere?**

7
8 **Q. WHAT IS THE DISPUTE WITH RESPECT TO ISSUE 7?**

9 **A.** MCI claims there is an alleged inconsistency with Horry's position on indirect
10 traffic because the agreement addresses and allows for transit traffic, which is
11 another form of indirect traffic.

12
13 **Q. ARE ISSUES 2 AND 4 RELATED TO THIS ISSUE?**

14 **A.** Yes. I incorporate my responses to those issues as part of my response to Issue 7.

15
16 **Q. DOES THE TRANSIT TRAFFIC PROVISION IN THE AGREEMENT**
17 **PLACE OBLIGATIONS OR RESPONSIBILITIES ON THIRD PARTY**
18 **CARRIERS?**

19 **A.** No. The only reason transit traffic is mentioned in the interconnection agreement
20 is because MCI may use Horry's tandem to transit to a terminating third party.
21 The only situation where this would arise is if Horry provides transit for MCI to
22 another carrier – like a CMRS carrier or other competitive local exchange carrier
23 (CLEC) – that has "homed" its NPA/NXX off of Horry's tandem. In this

1 instance, MCI would pay Horry its transit rate. MCI does not dispute this transit
2 option in the agreement.

3
4 The interconnection agreement specifically states that payment of reciprocal
5 compensation for transit traffic is not part of this agreement but instead must be
6 negotiated between MCI and the third party.

7
8 The treatment of transit traffic within this agreement is consistent with the FCC
9 policy that carriers may have indirect physical interconnection (Section 251(a))
10 (in this case the transiting party) but must also have a direct contractual
11 arrangement for the exchange of traffic with a LEC (Section 251(b)(5)). I have
12 discussed this position in Issues 2 and 4(a) above.

13
14 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
15 **REGARDING THIS ISSUE?**

16 **A.** I recommend the Commission allow the provision of transit traffic as it relates to
17 MCI transiting Horry's tandem and retain Horry's language to limit the
18 interconnection for the exchange of traffic to include only MCI's end-user traffic
19 and Horry's end user traffic originated on their respective networks. Because
20 MCI is likely to use Horry's tandem for transiting to third party carriers, the need
21 to identify "directly provided" is still critically important for traffic exchanged
22 between MCI and Horry, and Horry's language should be maintained.

1 **TOPIC 2: ISP-BOUND TRAFFIC AND VIRTUAL NXX**

2 **(ISSUES 3, 4(b), AND 5)**

3

4 **ISSUE 3: Is ISP traffic in the Commission’s or FCC’s jurisdiction in terms of**
5 **determining compensation when FX or virtual NXX service is subscribed to**
6 **by the ISP?**

7

8 **Q. WHAT IS THE PARTIES’ DISPUTE ON THIS ISSUE?**

9 **A.** This issue and the related Issues 4(b) and 5 deal with the classification of traffic to
10 be governed by this interconnection agreement. Specifically, the dispute centers
11 on whether ISP traffic sent *via* a virtual NXX service is to be included as traffic
12 subject to the FCC’s interim ISP-bound traffic compensation rules or is subject to
13 access charges. I incorporate my responses of 4(b) and 5 below as part of my
14 response to this issue.

15

16 **Q. WHAT TRAFFIC SHOULD BE INCLUDED IN THE**
17 **INTERCONNECTION AGREEMENT?**

18 **A.** The interconnection agreement is for the exchange of intraLATA traffic between
19 the parties’ ultimate end user customers.

1 **Q. IT APPEARS THAT THIS ISSUE NECESSARILY INVOLVES AN**
2 **UNDERSTANDING OF THE TERM “ISP-BOUND TRAFFIC” AS IT HAS**
3 **BEEN USED BY THE FCC AND THE COURTS. WHAT IS “ISP-BOUND**
4 **TRAFFIC”?**

5 **A.** This term was first used by the FCC in 1999 in its Declaratory Ruling.
6 (Implementation of the Local Competition Provisions in the Telecommunications
7 Act of 1996; Inter-Carrier Compensation for ISP-bound Traffic, FCC 99-38, rel.
8 Feb. 26, 1999) After the Court vacated and remanded the Declaratory Ruling, the
9 FCC issued its Order on Remand. In its Remand Order the FCC restates the
10 question that arose regarding ISP-bound Traffic; specifically, “whether reciprocal
11 compensation obligations apply to the delivery of calls from one LEC’s end user
12 customer to an ISP in the same local calling area that is served by a competing
13 LEC. The Commission determined at that time [in the Declaratory Ruling] that
14 resolution of this question turned on whether ISP-bound traffic ‘originates and
15 terminates within a local area.’” (*Order on Remand and Report and Order*, FCC
16 01-131, rel. Apr. 27, 2001, at 13) Having defined the question, the FCC
17 addressed the jurisdictional nature of ISP-bound traffic as jurisdictionally mixed
18 and largely interstate. In other words, traffic destined for an ISP physically
19 located in the same local calling area as the caller is considered ISP-bound traffic
20 subject to treatment as defined in the FCC’s *Remand Order*. All other traffic
21 destined for ISPs is simply considered long distance traffic and is subject to
22 access charges.

1 Horry’s proposed scope of their intercarrier compensation obligation is consistent
2 with the question before the FCC. This question has always been whether calls to
3 an ISP physically located in the same local calling area as the calling party are to
4 be treated the same as calls to a local business. Indeed, the CLECs’ long-standing
5 argument that a call to an ISP is just like a call to order pizza from a pizza parlor
6 would make no sense if they were referring to a pizza parlor located across the
7 state – or indeed in a different state – from the calling party, rather than to one
8 physically located in the same local calling area as the calling party.

9
10 **Q. ARE ALL CALLS DESTINED TO AN ISP CONTROLLED BY THE**
11 **TERM “ISP-BOUND TRAFFIC”?**

12 **A.** No. ISP-bound traffic controlled by the FCC’s ISP-bound traffic regulation is
13 traffic where the ISP’s server physically resides within the same local calling area
14 as the end user calling the ISP. The FCC defined a question and then responded
15 to the question; the entire discussion dealt with an ISP physically located within
16 the calling party’s local calling area. Traffic destined to an ISP physically located
17 outside the local calling area of the end user calling the ISP was not defined as
18 “ISP-bound traffic” and is not controlled by the *Order on Remand* nor the FCC’s
19 subsequent forbearance order (Order, In re: Petition of Core Communications,
20 Inc. for Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP
21 Remand Order, FCC 04-241, WC Docket No. 03-171, rel. Oct. 18, 2004).

1 The D.C. Circuit Court that reviewed the FCC order also recognized that the
2 “interim [compensation] provisions devised by the [FCC] apply only to calls
3 made to [ISPs] located within the caller’s local calling area.” (*WorldCom, Inc v.*
4 *FCC*, 288 F.3d 429 (D.C. Cir. 2002)) (Emphasis supplied)

5
6 MCI asserts that FCC interim regulations apply to all types of ISP traffic and not
7 just to “ISP-bound traffic” as the FCC uses this term. It is without question that
8 the FCC has jurisdiction over “ISP-bound traffic.” What is critical in this dispute
9 is an understanding of the scope of traffic to which the term “ISP-bound traffic”
10 applies. When an FX or virtual NXX service is deployed to reach an ISP, traffic
11 conveyed is not “ISP-bound traffic” and is subject to this Commission’s prior
12 decisions on virtual NXX traffic that reciprocal compensation should be based on
13 the physical location of the calling and called parties, not the NXX codes of those
14 parties. (See Order on Arbitration in Docket No. 2000-516-C, dated January 16,
15 2001 (“*Adelphia Arbitration Order*”); Order No. 2002-619 in Docket No. 2002-
16 181-C dated August 30, 2002 (“*US LEC Arbitration Order*”).

1 **Q. ON PAGE 39, LINES 6-10 OF MR. DARNELL’S DIRECT TESTIMONY**
2 **HE CONTENDS THAT HORRY SHOULD NOT BE CONCERNED WITH**
3 **RATE ARBITRAGE BECAUSE THE USE OF DIAL-UP INTERNET IS**
4 **DECLINING AS BROADBAND INTERNET USE INCREASES. DO YOU**
5 **AGREE WITH THIS CONTENTION?**

6 **A.** No. Although broadband internet access is growing, dial-up internet access
7 continues to represent a significant amount of minutes of use and will most likely
8 continue to represent a significant amount of minutes of use in the future. In fact,
9 in a recent *ex parte* presentation before the FCC, BellSouth discussed this very
10 topic.¹³ BellSouth makes a clear case to the FCC that dial-up internet access
11 minutes of use represent a significant amount of minutes of use, and if carriers are
12 allowed to bill reciprocal compensation charges for such traffic, even at the low
13 \$0.0007 rate from the ISP Remand Order, the intercarrier payments will be \$2 to
14 \$3 billion a year nationally for these dial-up ISP minutes of use. Therefore, the
15 opportunity for rate arbitrage by carriers like MCI is great and should not be
16 allowed based on a generalization made by MCI’s witness that dial-up is
17 declining because broadband internet use is increasing.

18
19 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
20 **REGARDING THIS ISSUE?**

21 **A.** I urge the Commission to reject MCI’s erroneous attempt to include more types of
22 traffic under the category of “ISP-bound traffic” than what the FCC and the Court

¹³ *Ex parte* Letter from Bennett L. Ross to Marlene H. Dortch in CC Docket Nos. 99-68 and 01-92 and WC Docket No. 03-171, dated August 29, 2005.

1 reviewing the matter decided. Accordingly, I recommend the Commission adopt
2 Horry's language for this disputed issue.

3
4 **ISSUE 4(b): Should MCI have to provide service only to End Users physically**
5 **located in the same LATA to be covered by this agreement?**

6
7 **Q. WHAT IS THE DISPUTE WITH REGARD TO ISSUE 4(b)?**

8 **A.** This issue is related to the classification of traffic. Horry's language provides a
9 proper restraint to the type of traffic governed by this agreement.

10
11 **Q. IS HORRY ATTEMPTING TO LIMIT MCI TO PROVIDING SERVICE**
12 **TO END USER CUSTOMERS PHYSICALLY LOCATED WITHIN THE**
13 **LATA?**

14 **A.** No. However, this agreement should only cover traffic between the parties for
15 end users physically located in the same LATA. MCI already agrees that the
16 physical location of the end user customers should govern the jurisdiction of
17 traffic, with the exception of what MCI considers ISP-bound traffic (which Horry
18 strongly disputes as explained in my testimony regarding Issue 3). The language
19 proposed by Horry simply cements this mutual understanding and should be
20 adopted by the Commission.

1 **Q. HOW DOES THIS ISSUE RELATE TO ISSUE 3?**

2 **A.** It is directly related. MCI desires to terminate Horry-originated traffic to its ISP
3 end user customers physically located outside the LATA and have this
4 interconnection agreement govern the exchange of such traffic. I adopt my
5 responses to Issue 3 for this issue. Traffic that is destined for ISPs outside the
6 local calling area is subject to appropriate access charges and should not be
7 included as traffic governed by this interconnection agreement.

8
9 MCI argues that the FCC never imposed a restriction that “ISP-bound traffic”
10 include only ISPs physically located within the local calling area of the
11 originating end user customer. This novel position makes no sense when the
12 entire issue is examined in context. The pizza parlor example I presented earlier
13 is an example illustrating this nonsensical reasoning. The reason the FCC
14 examined the matter in the first place was because of the introduction of local
15 competition and reciprocal compensation. CLECs began targeting ISPs for
16 customers within the incumbent LEC local calling area to maximize their
17 intercarrier compensation. Now MCI is attempting to expand the scope to traffic
18 never intended to be included in the FCC’s ISP-bound traffic determination.

1 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
2 **REGARDING THIS ISSUE?**

3 **A.** I recommend the Commission require traffic covered by this local interconnection
4 agreement to be limited to traffic between MCI's end user customers and Horry's
5 end user customers physically located within the LATA.

6
7 **ISSUE 5: Should all intraLATA traffic be exchanged on a bill and keep basis or**
8 **should reciprocal compensation apply when the traffic is out of balance?**

9
10 **Q. WHAT IS THE DISPUTE WITH THIS ISSUE?**

11 **A.** As with Issue 3, this issue deals with the scope and treatment of traffic governed
12 by this agreement.

13
14 **Q. WHAT IS RECIPROCAL COMPENSATION?**

15 **A.** When two carriers exchange telecommunications originated on their networks by
16 their end user customers, compensation for this traffic may apply. Compensation
17 for IntraLATA traffic in this agreement should be in the form of the mutual
18 exchange of services provided by the other party with no per minute of use
19 billing. When traffic is roughly balanced, this mutual compensation is used as a
20 mechanism to avoid the unnecessary time and expense of per minute of use
21 billing. It really doesn't make sense for carriers to bill each other since the net
22 exchange would be roughly equal. In order to avoid the measurement of traffic,
23 the rendering of a bill, and its collection – all of these processes can be time

1 consuming and expensive – carriers can agree to a mutual exchange of service for
2 this traffic. When a state commission arbitrates an issue of this nature, it may
3 impose this regime on traffic when no party has rebutted the presumption of
4 roughly equal traffic. (47 CFR § 51.713) Such is the case in this proceeding.

5
6 **Q. DOES ISSUE 3 RELATE TO THIS ISSUE?**

7 **A.** Yes. The definition of “ISP-bound traffic” and its use by the FCC and the courts
8 plays an important role in this issue. Mr. Darnell states that the FCC’s Order on
9 Remand does not limit the location of the ISP to be physically located within the
10 local calling party’s local calling area. (Darnell Direct at page 38, lines 5-6) I
11 strongly disagree. The context and scope of the FCC’s *Declaratory Ruling*, the
12 D.C. Circuit Court vacating and remanding that ruling, the FCC’s *Order on*
13 *Remand*, and the *Core Communications Order* granting forbearance all address
14 “ISP-bound traffic” which is a term used to describe traffic where the ISP is
15 physically located in the calling party’s local calling area. MCI attempts to
16 include as part of this precise definition all ISP traffic, including virtual NXX
17 traffic and, for that matter, ISP traffic carried by an IXC to distant ISP locations.
18 An example of MCI’s expansive and inappropriate reading is that a dial-up ISP
19 toll call from a customer physically located in Conway, SC to an ISP AOL
20 modem in Los Angeles, California would be classified as ISP-bound traffic and
21 subject to the Order on Remand provisions instead of interstate access rules. This
22 is not a correct reading of FCC rules and policy.

1 As discussed previously MCI is attempting to provide virtual NXX service to
2 ISPs physically located outside the LATA. In this instance reciprocal
3 compensation does not apply to this traffic because it is not “ISP-bound traffic” as
4 this term is used and understood by the FCC and the reviewing court.
5 Consequently, the only traffic that would be subject to reciprocal compensation is
6 any remaining intraLATA traffic, which is presumed to be roughly balanced.
7 MCI has not rebutted this presumption as required by FCC regulations
8 implementing Section 251.

9
10 **Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION**
11 **REGARDING ISSUE 5?**

12 **A.** I recommend the Commission adopt Horry’s proposed language.

1 **TOPIC 3: RECIPROCAL COMPENSATION RATE**

2 **(ISSUE 10)**

3
4 **ISSUE 10: What should the reciprocal compensation rate be for out-of-balance**
5 **local/EAS or ISP-bound traffic?**

6
7 **Q. PLEASE DESCRIBE THE NEGOTIATIONS BETWEEN HORRY AND**
8 **MCI REGARDING THIS ISSUE.**

9 **A.** I understand that during the negotiations the balance of traffic was presumed to be
10 relatively balanced. Consequently, no reciprocal compensation rate was
11 negotiated. Since this matter was never even discussed, it is not ripe for
12 arbitration. To the extent the Commission determines the need to address this
13 matter, it should order the parties to negotiate a reciprocal compensation rate as
14 part of the implementation of the arbitration decision. At present this
15 Commission does not have a properly presented arbitration issue to resolve.

16
17 **Q. DO YOU AGREE THAT MCI'S PROPOSED \$0.0007 RATE IS THE**
18 **APPROPRIATE RATE TO APPLY IN THE EVENT THAT THE**
19 **TRAFFIC EXCHANGED BY THE PARTIES IS OUT-OF-BALANCE?**

20 **A.** No. The \$0.0007 rate was established by the FCC with specific conditions.
21 Specifically, this rate only applies if a LEC has opted into the interim
22 compensation mechanism established by the FCC. (ISP Remand Order at 89)

1 Horry has not opted into the FCC's interim compensation mechanism.

2 Consequently the \$0.0007 per minute rate does not apply to Horry.

3
4 **Q. WHAT DO YOU RECOMMEND BE DONE BY THE COMMISSION**
5 **REGARDING THIS ISSUE?**

6 **A.** I recommend the Commission reject the issue as not properly presented for
7 arbitration.

8
9 **Q. WILL YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

10 **A.** Many of the issues I address are interrelated policy questions. I have presented
11 testimony recommending to the Commission that an interconnection agreement is
12 limited in scope to the traffic exchanged between two parties' networks – traffic
13 that was originated by end users of the parties' networks and not traffic of third
14 parties. This is a well established policy that is receiving new attention as VoIP
15 providers are seeking to exchange traffic with local exchange carriers. Despite
16 their best efforts to avoid certain federal and state regulations, the VoIP providers
17 need to realize there are restrictions and limitations imposed on Section 251
18 interconnection agreements negotiated for the purpose of the exchange of traffic.

19
20 I have also presented testimony regarding the mutual exchange of traffic. I have
21 shown that the traffic governed by this interconnection agreement should include
22 all MCI end user traffic for customers physically located in the LATA. Traffic
23 for ISPs located outside the LATA is not part of this agreement. This is what the

1 FCC and the reviewing court have determined and this is the right policy decision
2 for South Carolina given this Commission's prior orders on virtual NXX traffic.

3

4 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

5 **A.** Yes.